

**BEFORE THE
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Section 63.19 Application of)	
)	File No. ITC-MSC-20011101-00550
COMSAT CORPORATION)	
)	
For Authority under Section 214 of the)	
Communications Act to Discontinue the)	
Provision of Occasional-Use Television,)	
Occasional-Use IBS and Part-Time IBS Services)	

MEMORANDUM OPINION AND ORDER

Adopted: December 17, 2001

Released: December 18, 2001

By the Chief, International Bureau:

I. INTRODUCTION AND BACKGROUND

1. On November 1, 2001, COMSAT Corporation (COMSAT) filed an application pursuant to Section 214 of the Communications Act of 1934, as amended (Act),¹ to discontinue the provision of certain international services.² Specifically COMSAT requests, pursuant to Sections 63.19(b), 63.62, 63.71, and 63.505 of the Commission's rules,³ the authority to discontinue the provision of occasional-use television, occasional-use IBS, and part-time IBS services provided over the Intelsat system by its COMSAT World Systems (World Systems) line of business on routes where World Systems is regulated as dominant.⁴ COMSAT and its World Systems business are currently regulated as dominant on certain

¹ 47 U.S.C. §214.

² Section 63.71 Application of COMSAT CORPORATION for Authority under Section 214 of the Communications Act to Discontinue the Provision of Occasional-use Television, Occasional-use IBS and Part-Time IBS Services, File No. ITC-MSC-20011101-00550 (filed Nov. 1, 2001) (*Application*). COMSAT Corporation is a wholly-owned subsidiary of Lockheed Martin Global Telecommunications L.L.C., which is a wholly-owned subsidiary of Lockheed Martin Corporation.

³ 47 C.F.R. §§ 63.19(b), 63.62, 63.71, 63.505.

⁴ COMSAT World Systems also does business as LMGW World Systems. COMSAT further notes that it will discontinue, in accordance with Section 63.19(a) of the Commission's rules, its occasional-use services on non-dominant routes as well. See Letter from Jennifer A. Warren, Sr. Director, Trade & Regulatory Affairs, Lockheed Martin Corporation, to Lisa Choi, Attorney/Advisor, Telecommunications Division, International Bureau, FCC (filed December 12, 2001) (*Supplemental Letter*).

U.S.-international routes pursuant to the Commission's decision *In the Matter of COMSAT Corporation*, 13 FCC Rcd 14083 (1998) (*COMSAT Non-Dominant Order*).⁵

2. The International Bureau (Bureau) placed the *Application* on public notice on November 5, 2001.⁶ In response, the Bureau received no oppositions or replies. On December 12, 2001, COMSAT filed a supplemental letter in response to a staff request to clarify its original application.⁷

3. Satellite-based services such as occasional-use television, occasional-use IBS services and part-time IBS services are not telephone services. Occasional-use television or video service is the provision of satellite transmission capacity to third parties for their video and associated audio transmissions on short notice and for a short duration, usually on one-minute increments.⁸ Such services do not include the provision of broadcast services, including direct broadcast satellite and direct-to home television services. International business service, or IBS, is COMSAT's international private line service. As COMSAT describes, IBS service involves the anytime provision of satellite transmission capacity to third parties for their data transmissions.⁹ COMSAT provides IBS on both an occasional-use full-time and part-time basis. COMSAT states that it has had no customers for part-time IBS service since 1997.

4. In its *Application*, COMSAT does not propose to substitute any other services for those being discontinued.¹⁰ However, COMSAT states that all services being discontinued on its dominant routes will continue to be available from Intelsat and other Intelsat distributors.¹¹ COMSAT also states that the decline in demand for these services, resulting in part from the competing offerings from Intelsat, makes them no longer economically viable to provide. Therefore, COMSAT asserts that the proposed discontinuance will not adversely affect the present or future public convenience and necessity. COMSAT proposes to make the discontinuance of these services effective on January 1, 2002.

II. DISCUSSION

5. The standard for assessing a request for authority to discontinue service is found in Section 214(a) of the Act.¹² According to Section 214(a), the Commission may grant a request for

⁵ In the *COMSAT Non-Dominant Order*, the Commission classified COMSAT as non-dominant for its provision of specific Intelsat services on competitive U.S.-international routes, but it continued to classify COMSAT as dominant for the provision of switched voice, private line, and occasional-use Intelsat services on non-competitive U.S.-international routes. COMSAT is classified as dominant for the provision of occasional-use television services on 142 U.S.-international routes.

⁶ Public Notice, DA 01-2580 (rel. November 5, 2001).

⁷ *See Supplemental Letter*.

⁸ *COMSAT Non-Dominant Order*, 13 FCC Rcd 14,083 at 14,093, note 39.

⁹ *See Supplemental Letter*.

¹⁰ *Application* at 2.

¹¹ *Application* at 2.

¹² 47 U.S. C. § 214(a).

discontinuance upon a finding that “neither the present nor the future public convenience and necessity will be adversely affected” by discontinuance of service.¹³ This assessment involves a balancing of the financial burden that would be imposed upon the applicant by continuing to offer the service with the needs of the users of the discontinued service.¹⁴ In considering a request to discontinue service, we also must examine whether users will have reasonable, available, alternative services. In addition, we must consider whether these alternative services are able to absorb the redistribution of traffic resulting from the discontinuance.

6. From the information provided by COMSAT, it appears that the decline in demand for occasional-use services on dominant routes has been dramatic.¹⁵ As COMSAT states in its application, it has had no part-time IBS customers since 1997. Moreover, from 1998 through 2000, the number of minutes COMSAT has provided of occasional-use television has dropped from 80,010 to 30,243, respectively, a greater than 60% drop.¹⁶ In addition, COMSAT has provided no occasional-use IBS minutes since 1998.¹⁷ COMSAT argues that this shrinking customer base has made these services no longer economically viable to provide. We conclude, based upon the evidence in the record, that there would be an undue financial burden on COMSAT to require it and its World Systems business to continue to provide such services.

7. We next examine whether discontinuance of these occasional-use services would adversely affect the public convenience and necessity. Currently, we note that there are no COMSAT customers for part-time IBS services; therefore, there is no immediate, adverse impact of discontinuance of this service on the public. Nevertheless, if COMSAT discontinues provision of its other occasional-use services, existing customers must have reasonable, available alternatives. Occasional-use services are available on all of the affected routes from Intelsat and other satellite providers that use the same underlying satellite facilities COMSAT currently uses.¹⁸ Moreover, according to COMSAT, these identical services from Intelsat are available to consumers at reasonable rates.¹⁹ Therefore, we conclude that existing customers will not be adversely affected and that reasonable, alternative services are available.

¹³ *Id.*

¹⁴ *See In the Matter of AT&T Corporation*, Memorandum Opinion and Order, 14 FCC Rcd 13,225 (1999); *Public Coast RadioTelegraph Stations*, 67 FCC 2d 790 (1978); *Western Union Telegraph Company*, 87 F. Supp. 324 (D.C. Cir. 1949).

¹⁵ *Application* at 3.

¹⁶ *Application* at 3. COMSAT notes that for the first three quarters of 2001, its provision of occasional-use television has fallen further to 8,575 minutes.

¹⁷ *Application* at 3.

¹⁸ *Application* at 2. *See also Applications of INTELSAT LLC for Authority to Operate, and to Further Construct, Launch and Operate C-band and Ku-band Satellites that form a Global Communications System in Geostationary Orbit*, Memorandum Opinion Order and Authorization, 16 FCC Rcd 12,280 (2001) (in which the Commission found that direct access to Intelsat would be available to customers upon Intelsat’s privatization in July 2001).

¹⁹ *See Supplemental Letter.*

8. COMSAT further requests that grant of its request to discontinue its occasional-use services be effective by January 1, 2002. As required by Section 63.19(a) of the Commission's rules, COMSAT provided all of its affected customers with written notice of the proposed discontinuance, attached as Appendix A to this Order, at least 60 days in advance.²⁰ The notice informed customers of COMSAT's intention to discontinue its occasional-use services and contained information about available, alternative services.

9. Because we find that current COMSAT customers can find adequate substitute services, discontinuance of COMSAT's occasional-use television, occasional-use IBS and part-time IBS services will not adversely affect the present or future public convenience and necessity. Requiring COMSAT to continue to provide these occasional-use services would place an unjustifiable financial burden on COMSAT. Moreover, COMSAT has given its affected customers appropriate advance notice of its planned discontinuance and available, alternative services. Accordingly, we grant COMSAT's request to discontinue its occasional-use television, occasional-use IBS and part-time IBS services on its dominant routes effective January 1, 2002.

II. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 2, 4(i), 4(j), 5(c), 214, and 303(r) of the Communication Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 155(c), 214, and 303(r), and Sections 0.51, 0.261, 63.19, 63.62, 63.71, and 63.505 of the Commission's rules, 47 C.F.R. §§ 0.51, 0.261, 63.19, 63.62, 63.71, 63.505, COMSAT's Application for authority to discontinue the provision of occasional-use television, occasional-use IBS and part-time IBS services by World Systems on routes where World Systems is regulated as dominant IS GRANTED.

11. IT IS FURTHER ORDERED that this order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief
International Bureau

²⁰ The notice of discontinuance of service was sent to affected customers on November 1, 2001. See Appendix A and *Supplemental Letter*, Attachment 1.

APPENDIX A

Attachment 1

November 1, 2001

Dear Customer:

Effective January 1, 2002, COMSAT World Systems (a/k/a LMGT World Systems) plans to discontinue offering occasional use television, occasional use IBS, and part-time IBS services via the Intelsat system on all routes to and from the United States. This will not affect your ability to obtain these services, as they can be ordered from Intelsat itself.²¹ Please contact Maria Kimble, Intelsat's Manager of Occasional Use Services, at (202) 944-6799. She will assist you in establishing a new account and/or placing service orders. Please be advised that establishing a new account with Intelsat may take up to two weeks. Thus, we recommend that you initiate this process soon.

We appreciate your past business. We will continue to provide full-period circuit and leased bandwidth services on the Intelsat system, as well as teleport services in Clarksburg, Maryland and Santa Paula, California. We look forward to fulfilling any such requirements you may have.

Best regards,

Robert S. Twining

²¹ The FCC will normally authorize this proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 30 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the § 63.71 Application of COMSAT Corporation. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.